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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,830	03/31/2004	Tilman Herberger	57765/03-654	5071
22206 7590 10/22/2007 FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS THE KENNEDY BUILDING 321 SOUTH BOSTON SUITE 800 TULSA, OK 74103-3318			EXAMINER AGGARWAL, YOGESH K	
			ART UNIT 2622	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,830

Applicant(s)

HERBERGER ET AL.

Examiner

Yogesh K. Aggarwal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/28/2004.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Specification

1. Claim 7 is objected to because of the following informalities: A method according to claim 7 should be changed to A method according to claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6, 8, 9, 11, 13, 14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iijima et al. (US Patent # 6,621,524) in view of Parulski et al. (US Patent # 6,310,647).

[Claim 1]

Iijima et al. teaches a method of preparing a novelty digital photograph (See the A/D converter 4 of the digital camera 100 in figure 1 used to generate digital images) of a subject (col. 4 lines 34-51), wherein is provided one or more templates (mask pattern memory 14B has multiple templates as taught in col. 18 line 62-col. 19 line 14), comprising the steps of

- a. A digital photo device (camera 100) would have to be inherently powered on, said photo device having at least one display device (LCD 20) integral thereto (col. 4 lines 56-65, col. 5 lines 36-45);
- c. displaying a preview of said subject on said display (col. 18 lines 47-59, figures 9, 10A);
- b. selecting at least one template from among said at least one templates (col. 18 line 60-col. 19 line 14)[Although steps b and c are taught in opposite order their effect on the overall method is

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the same i.e. selecting a template before displaying a preview of the subject would have no overall change on the result]

d. simultaneously displaying in real-time a representation of said selected at least one template together with said preview of said subject on said display while a user orients said photo device (col. 18 line 60-col. 18 line 25, figures 9, 10c and 10d, since a through image is being displayed on the LCD and is not yet captured, it is real time, also see col. 5 lines 36-45);

e. activating (pressing release button 63) said photo device to capture a composite digital image of said subject and said selected at least one template (col. 19 lines 26-31); and,

f. storing said composite image on a memory 14A thereby creating a novelty digital photograph of a subject (col. 19 lines 26-31. col. 18 lines 42-46).

Iijima fails to teach storing the image on a computer readable medium. However Parulski et al. teaches that the images in a digital camera are stored on a removable memory card and then the memory card is inserted into computers 12 and 14 where an image can be edited, displayed or printed (col. 3 line 66-col. 4 line 16, figure 1).

Therefore taking the combined teachings of Iijima and Parulski, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have stored the images on a computer readable medium like a memory card so that the memory card provides greater data storage capability and an increased ease of transferring data to other applications like a computer, extremely small size which makes it easier to carry thereby making it extremely portable.

[Claim 2]

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Iijima teaches wherein at least a portion of said one template is a graphic template (the Examiner interprets “graphic” as at least any data in the form of a picture or image. Iijima teaches a mask pattern that is a picture or image and is therefore considered as a graphic template), said graphic template containing at least one transparent region therein (figures 10b and 10c shows a transparent region through which the object is displayed), said at least one transparent region being for viewing at least a portion of the subject therethrough (See figures 10b-10d).

[Claim 3]

Iijima teaches a luminance processed pattern as shown in figures 11-11d (col. 19 lines 43-49) that is considered as video effects (Applicant’s define effects as brightness, color, contrast etc. in Paragraph 42).

[Claim 4]

Parulski teaches when the memory card is inserted into the host computer that image is displayed and printed (col. 3 line 66-col. 4 line 16). Iijima as noted in claim 1 teaches composite images.

[Claim 6]

Parulski teaches when the memory card is inserted into the host computer that image is printed (col. 3 line 66-col. 4 line 16). Iijima as noted in claim 1 teaches composite images. Parulski does not teach printing on a generally flat medium. However Official notice is taken that it is notoriously common to print images on a flat piece of paper in order to have the images printed smoothly thereby having an image that is better in quality. Therefore taking the combined teachings of Iijima, Parulski and Official Notice, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have printed images on a generally flat

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medium in order to have the images printed smoothly thereby having an image that is better in quality.

[Claim 8]

Iijima teaches a method of creating a composite photograph within a digital photo device (See the A/D converter 4 of the digital camera 100 in figure 1 used to generate digital images), said digital photo device having a display device (LCD 20) at least for displaying previews of digital images (col. 4 lines 56-65, col. 5 lines 36-45), wherein is provided at least one user-selectable template (col. 18 line 60-col. 19 line 14), comprising the steps of:

a. within said digital photo device, selecting a template from among said at least one templates (col. 18 line 60-col. 19 line 14);

b. selecting a subject of said composite photograph (col. 18 lines 47-59, figures 9, 10A);

[Although steps a and b are taught in opposite order their effect on the overall method is the same i.e. selecting a template before selecting a subject would have no overall change on the result of the overall method]

c. simultaneously displaying in real-time a representation of said selected template together with a representation of said subject on said display while a user orients said photo device to include an image of the subject within the template (col. 18 line 60-col. 18 line 25, figures 9, 10c and 10d, since a through image is being displayed on the LCD and is not yet captured, it is real time, also see col. 5 lines 36-45);

d. activating said photo device to capture a composite digital image of said subject and said template (col. 19 lines 26-31. col. 18 lines 42-46); and,

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Iijima fails to teach displaying a representation of said composite image on a computer display. However Parulski et al. teaches that the images in a digital camera are stored on a removable memory card and then the memory card is inserted into computers 12 and 14 where an image can be edited, displayed or printed (col. 3 line 66-col. 4 line 16, figure 1).

Therefore taking the combined teachings of Iijima and Parulski, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have displaying a representation of said images on a computer display card in order to have the images being displayed on a larger screen compared to a camera display thereby allowing the user to zoom in the images easily and also seeing the images more clearly.

[Claims 9, 11, 13]

See Examiner's notes regarding rejection of claims 2, 4 and 6 respectively.

[Claim 14]

Iijima teaches a real-time method (since a through image is being displayed on the LCD and is not yet captured, it is real time) of creating a composite digital image within a digital photo device (See the A/D converter 4 of the digital camera 100 in figure 1 used to generate digital images), said digital photo device having a preview display device (LCD 20) integral thereto col. 4 lines 56-65, col. 5 lines 36-45), said display device at least for displaying previews of digital images, wherein is provided a plurality of user-selectable templates (col. 18 line 60-col. 19 line 14), comprising the steps of:

- a. within said digital photo device, selecting at least one template from among said plurality of templates (col. 18 line 60-col. 19 line 14);
- b. selecting a subject of said composite digital image (col. 18 lines 47-59, figures 9, 10A);

[Although steps a and b are taught in opposite order their effect on the overall method is the same i.e. selecting a template before selecting a subject would have no overall effect on the result of the overall method]

c. simultaneously displaying in real-time a representation of said selected at least one templates together with a representation of said subject on said preview display device while a user orients said photo device to include an image of the subject within the template as it appears in said preview display device (col. 18 line 60-col. 18 line 25, figures 9, 10c and 10d, since a through image is being displayed on the LCD and is not yet captured, it is real time, also see col. 5 lines 36-45);

d. activating said photo device to capture a composite digital image of said subject and said template (col. 19 lines 27-31, col. 18 lines 42-46); and,

e. storing said composite image on a memory 14A, thereby creating a composite photograph (col. 19 lines 27-31).

Iijima fails to teach storing the image on a computer readable medium. However Parulski et al. teaches that the images in a digital camera are stored on a removable memory card and then the memory card is inserted into computers 12 and 14 where an image can be edited, displayed or printed (col. 3 line 66-col. 4 line 16, figure 1).

Therefore taking the combined teachings of Iijima and Parulski, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have stored the images on a computer readable medium like a memory card so that the memory card provides greater data storage capability and an increased ease of transferring data to other applications like

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a computer, extremely small size which makes it easier to carry thereby making it extremely portable.

[Claims 19 and 20]

See Examiner's notes regarding rejection of claims 4 and 6 respectively.

4. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iijima et al. (US Patent # 6,621,524), Parulski et al. (US Patent # 6,310,647) and further in view of Okuzawa (US Patent # 4,011,571).

[Claims 7 and 10]

Iijima in view of Parulski fails to teach wherein the subject comprises a plurality of people. However Okuzawa teaches a mark 10 (template) that is used to photograph a plurality of people (col. 3 lines 14-20, figure 3b). Therefore taking the combined teachings of Iijima, Parulski and Okuzawa, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have the subject that comprises a plurality of people in order to position the template 10 according to distance so as to make the taking ring focus on an image at a distance of 3 meters (col. 3 lines 7-14) improving the overall focus thereby having an image that is pleasing to the user.

5. Claims 5, 12 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iijima et al. (US Patent # 6,621,524), Parulski et al. (US Patent # 6,310,647) and further in view of Parulski et al. (US PG-PUB # 20030025808).

[Claim 5]

Iijima teaches a graphical template (the Examiner interprets "graphic" as at least any data in the form of a picture or image. Iijima teaches a mask pattern that is a picture or image and is

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therefore considered as a graphic template as shown in figures 10b and 10d) but fails to teach wherein said selected template has a resolution commensurate with a resolution of said digital photo device, and wherein said representation of said selected at least one templates comprises a low-resolution version of said selected at least one templates.

However Parulski '808 teaches a low resolution version of the templates desired by the user can be stored in the camera, so that the user can preview the final composite image. A high resolution version of the template can be used by the service provider to print the final composite image (Paragraph 28). Applicant's specification does not clearly describe the relation between a high resolution template with the resolution of the digital camera and the claim is also broad because it uses the word "commensurate" which means "equal in measure or proportionate to". Therefore Parulski's teaching of a high resolution template is considered "commensurate" with that of the digital camera.

Therefore taking the combined teachings of Iijima, Parulski '647 and Parulski '808, it would be obvious to one skilled in the art at the time of the invention to have been motivated to have used a high resolution template commensurate with a digital camera and a low resolution while previewing so as to preview the image along with low resolution in real time thereby making the process quicker and circuit less complex and to finally compose the image in high resolution in order to have a better quality image.

[Claims 12 and 18]

See Examiner's notes regarding rejection of claim 5.

Allowable Subject Matter

6. Claim 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest "A real-time method of creating a composite digital image within a digital photo device according to Claim 14, wherein is provided at least at least one template compatibility rule, and step (a) comprises the steps of wherein is provided at least at least one template compatibility rule, and step (a) comprises the steps of (a1) within said digital photo device, choosing two or more templates from among said plurality of templates, (a2) selecting one or more of said template compatibility rules, (a3) using said selected template compatibility rules to determine whether said chosen two more templates are compatible, (a4) only if said selected templates are determined to be incompatible, requiring another selection according to step (a2), else, determining that said chosen two or more templates have been selected".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571)-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA 

October 14, 2007